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2 LAWYERS DECcry SNOOPING BY U.S.

Eavesdropping Is Described at a Judiciary Hearing as 'Almost Beyond Control'

By JAMES M. NAUGHTON

WASHINGTON, Feb. 6—Representatives of the American Civil Liberties Union told a House subcommittee today that Government eavesdropping on citizens under the guise of national security had gone "almost beyond control."

John H. P. Shattuck, national staff counsel to the A.C.L.U., and Leon Friedman, a professor of law at Hofstra University, urged the Judiciary Committee's Subcommittee on Civil Liberties to approve legislation that would prohibit surveillance of Americans without a court order that was based on probable cause a crime might be committed.

Citing documents from civil liberties lawsuits in which they had been involved, the two lawyers contended that existing law offered little or no protection against such surveillance activities as the following:

"The wiretapping, without prior court approval, of an unidentified person and group from 1942 to 1967 by the Federal Bureau of Investigation."

"The interception of telephone conversations between lawyers and their clients by the F.B.I. and Army agent overseas."

A plan outlined in F.B.I. files, but apparently never carried out, to "disrupt and confuse" the Black Panther party in San Francisco by feeding it false information.

The activities were documented in 17 sets of court papers that Mr. Shattuck and Mr. Friedman submitted to the committee. Nearly all of the information had been disclosed previously, but Mr. Shattuck contend that it was a "very small tip of the iceberg" of Federal surveillance activities not expressly banned by law or court rulings.

High Court Ruling

In 1972, the Supreme Court ruled that domestic security wiretaps could not be installed without court warrants, but the ruling did not prohibit electronic surveillance to obtain "foreign intelligence."

Mr. Shattuck and Mr. Friedman contended today that Federal agencies had continued to conduct surveillance of civilians under the guise of foreign intelligence purposes that could not be justified in lawsuits joined by the A.C.L.U.

Referring to the wiretap that went on for 25 years, Mr. Friedman said, "People grew up and died and had babies, and this wiretap continued all this time."

The testimony was given at the first of the subcommittee's hearings on measures intended to curtail Government surveillance.

The subcommittee's chairman, Representative Robert W. Kastenmeier, Democrat of Wisconsin, said in an opening statement that wiretapping without court order "could form the cornerstone of a future police state." He also said that 13 measures would be examined by the panel to seek some legislative remedy against surveillance abuses.

Closing Loopholes

One measure, prohibiting surveillance of citizens for any reason without a court order, was outlined to the subcommittee by Senator Charles M.C. Mathias Jr., Republican of Ohio. They said it would close loopholes that no wiretap agencies to open mail, enter private homes, install eavesdropping devices and obtain telephone, credit and other private records without a showing of possible criminal wrongdoing.

Several subcommittee members expressed misgivings about the proposal. Representative Robert F. Drinan, Democrat of Massachusetts, said he was concerned that "the fact of the matter is Federal judges virtually never deny requests" for wiretap authority.

Representative Charles E. Wiggins, Republican of California, said the measure might take away judicial flexibility to

decide when surveillance was warranted.

Asked whether he would support the bill, Mr. Friedman said it was "not the whole answer" but that "anything is better than the anarchy now."

In a related development, the new Senate Select Committee on Intelligence Operations adopted rules requiring strict confidentiality for its inquiry into the conduct of Federal intelligence agencies.

Senator Frank Church, Democrat of Idaho who is chairman of the committee, said that any staff members who disclosed confidential information acquired in the inquiry would be dismissed.

Mr. Church also said the Senate panel would cooperate with a comparable committee being organized in the House, even to the point of holding some joint hearings or agreeing to divide responsibility for various phases of the investigation if both panels thought it wise to do so.

The Senate committee unanimously approved the appointment of William G. Miller, a 43-year-old former Foreign Service office and Congressional aide, as staff director.